

Application No. 09/865,141
Amendment Dated July 29, 2003
Reply to Office Action dated Jan April 29, 2003

REMARKS

Applicant is appreciative of the Examiner's granting a telephone interview on July 24, 2003, with his legal representative. In that interview, the above amended claims were discussed in relation to the cited prior art. Specifically, the densities of the first and second absorbents relative to the liquid being absorbed, and the structure of the solidifier being such that the liquid is converted to a gel when the absorbents are added was discussed. It was concluded that because the liquid is converted into a gel that the absorbents are acting as gelling agents, and while the prior art cited does not disclose a gradient of gelling agents used to solidify a liquid, a new search would have to be conducted directed specifically to gelling agents. However, the Examiner indicated that based on the prior art currently of record, it appears that the claims as now presented are patentably distinct. Applicant is appreciative of such indication.

In his Office Action dated April 29, 2003, the Examiner maintained his rejections from his Office Action dated February 24, 2003 (Paper No. 4). Such rejections are noted. Applicant respectfully maintains his position stated in his response to Paper No. 4 filed on May 24, 2003. Arguments presented by Applicant therein are incorporated herein by reference.

In the present action, the Examiner has indicated that certain features of Applicant's invention are not recited in the claims. It is respectfully submitted that such feature is in the claims are originally presented. For example, Claim 1 as originally presented includes the limitation "said first absorbent having an apparent density which renders said first absorbent positively buoyant relative to the liquid sought to be solidified." Because the first absorbent is positively buoyant relative to the liquid, the liquid is necessarily more dense than the first absorbent.

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Similarly, the second absorbent is necessarily more dense than the liquid as it is "negatively buoyant relative to the liquid."

However, Claims 1, 18 and 23 have been amended to positively set forth that the liquid has a reference density, that the first absorbent or mixture of powdered absorbents is less dense than the liquid, and that the second absorbent or mixture of powdered absorbents is more dense than the liquid.

In view of the clarification of the language as originally presented in the Claims, it is respectfully submitted that the limitations as discussed in the Applicant's prior response as being patentably distinct over the prior art of record were included in the claims as originally presented. Notwithstanding, it is respectfully submitted that with the amendments to Claims 1, 18 and 23, such limitations are clearly claimed.

The Examiner indicated that the recitation of the intended use of the claimed invention must result in a structural difference between the claims invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The Examiner continued that if the prior art structure is capable of performing the intended use, it meets the claim. It is respectfully submitted that the prior art structure is incapable of performing the intended use of the present invention. Namely, the prior art structure cited by the Examiner is incapable of being added to a volume of liquid to convert the liquid to a gel. Claims 1, 18 and 23 have been further amended to clarify this limitation.

Benson was discussed in the above-referenced telephone interview. Benson discloses a distributor for a gelling agent. The Examiner noted that Benson highlights the problem with gelling agents that they tend not to evenly disperse within the liquid. Accordingly, Benson discloses a mechanical device to assist in evenly distributing the gelling agent into the liquid. However, Benson does not disclose a gelling agent having a variant or gradient of densities. Accordingly,


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Benson does not anticipate or make obvious a first absorbent and a second absorbent having densities respectively lower and higher than a reference density of the liquid in order to convert the liquid into a gel, as claimed in the present application.

In view of the amendments to Claims 1, 18 and 23 as described, and further in view of the distinguishing remarks made above, it is respectfully submitted that the Examiner's rejections have been overcome and that the application is now in condition for allowance.

Please charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 16-1910.

Respectfully submitted,
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